

ORIGINAL

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

NOV 03 2003

at 4 o'clock and 05 min M
WALTER A.Y.H. CHINN, CLERK

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CLERK, U. S. DISTRICT COURT
DISTRICT OF HAWAII

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ASSOCIATION OF APARTMENT OWNERS
OF THE BOUGAINVILLE, BOARD OF
DIRECTORS OF ASSOCIATION OF
APARTMENT OWNERS OF THE
BOUGAINVILLE, individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

CIVIL No. 03-00312 HG BMK
(Class Action)

**STIPULATION FOR DISMISSAL
WITHOUT PREJUDICE AND ORDER**

STATE FARM INSURANCE, JOHN DOES 1-10, JANE DOES 1-10, DOE CORPORATIONS 1-10, DOE PARTNERSHIPS 1-10 AND DOE GOVERNMENTAL ENTITIES 1-10.

Defendants.

STIPULATION FOR DISMISSAL WITHOUT PREJUDICE AND ORDER

Pursuant to the Court's Minute Order of October 20, 2003, Plaintiffs, the Association of Apartment Owners of the Bougainville, Board of Directors of Association of Apartment Owners of the Bougainville, individually and on behalf of all others similarly situated, and the Defendant, State Farm Fire and Casualty Company agree to entry of an order dismissing Plaintiff's Complaint without prejudice on the following terms and conditions:

1. Plaintiffs' Complaint is dismissed to allow the Plaintiffs to refer their allegations to the Hawaii Insurance Commissioner, including, but not limited to, whether the filed rate doctrine applies to the present case and whether Defendant's insurance policy in question and its inflation procedures and figures are in violation of any Hawaiian state law governing insurance.

2. Dismissal of Plaintiffs' Complaint is without prejudice to Plaintiffs' claims or the claims of the class Plaintiffs seek to represent; and

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3. Plaintiffs and Defendant agree to toll the statute of limitations as to all claims asserted in this action by or on behalf of the class representative and putative class members from the date of the entry of this Order, until any of the following:

a. Thirty (30) days from the receipt of notification of the rendering or entry of any decision, order, or other action, as that phrase is used in Rule 72 of the Hawai'i Rules of Civil Procedure, including, but not limited to, a decision, order, or other action determining that the Insurance Commission does not have the ability or jurisdiction to determine the issues presented, provided that, if a notice of appeal is filed pursuant to Rule 72 of the Hawai'i Rules of Civil Procedure, then at the date upon which any decision of the circuit court or of any appellate court thereto becomes final and non-appealable; or

b. Thirty (30) days after written confirmation by the named Plaintiffs herein of discontinuance or dismissal of pursuit of any request for relief or for a determination by the Insurance Commissioner; or

c. One Hundred Twenty (120) days after written notice by Defendant of the termination of this tolling agreement; or

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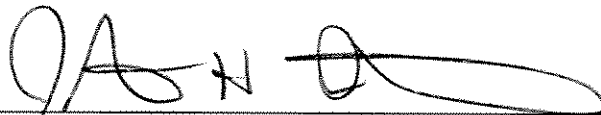
d. Upon the filing, in any court, of any cause of action by the named Plaintiffs herein against Defendant arising out of the same facts or transactions as alleged in the Complaint herein;

Provided, however, that this agreement only tolls those causes of action which have accrued as of the date of the filing of the Complaint herein.

DATED: Honolulu, Hawai'i, 11-3-03.

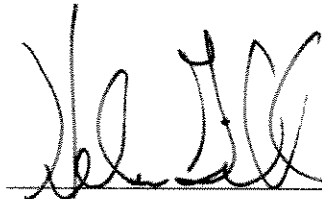


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Attorneys for Defendant

APPROVED AND SO ORDERED:



JUDGE OF THE ABOVE-ENTITLED COURT

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